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that the texture shown in Figure 2 is just one example and that various other textures or patterns may be used for the gripping surfaces 18.

REMARKS

The Examiner and her supervisor, Mr. Ackun, are thanked for discussing this patent application with the inventors Mr. Bloeme and Mr. Perry and with their representative Mr. Sutcliffe on May 28, 2003. Reexamination and reconsideration are respectfully requested.

I. Interview

The telephonic interview held on May 28, 2003, was productive and, with this Amendment, should result in the allowance of the pending claims. During the interview, Applicant stated that it intended to file a Notice of Appeal and an Appeal Brief and that it was not in their best interest to have additional Office Actions issued with new rejections. The Examiners were very appreciative of these concerns and agreed to contact the undersigned attorney before issuing another rejection. Based on the revisions being made with this Amendment and the comments set forth below, the application should be in condition for allowance. If the Examiner does not intend to issue a Notice of Allowance, the Examiner is requested to contact the undersigned attorney in order to resolve any remaining matters.

II. The objection to the specification should be withdrawn.

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The Examiner objected to the specification for allegedly failing to provide proper antecedent basis for first and second gripping surfaces formed of "irregular surfaces." The gripping surfaces are illustrated as irregular surfaces in Figure 2. During the interview, the support for the term "irregular" was shown to be in Figure 2 itself. At the request of the Examiners, the specification is being revised to include the term "irregular." With this change, the specification includes written support for the term in addition to the support in Figure 2. The objection to the specification should accordingly be withdrawn.

III. The claims comply with § 112.

The Examiner rejected claim 1 under 35 U.S.C. § 112, first paragraph, as not containing subject matter described in a way as to reasonably convey to one skilled in the art that the inventors had possession of the invention. The basis for this rejection was the inclusion of the language "irregular surfaces" in claim 1. As mentioned above, the specification does provide support for gripping surfaces having irregular surfaces both in Figure 2 and now in the written description on page 9. The rejection of claim 1 should therefore be withdrawn.

The Examiner rejected claim 10 since it recited that the thickness of the flight plate and transition area is "0.9," whereas the specification stated that this thickness was "0.090." Since claim 10 is being revised to state that the thickness is "0.090," the rejection of claim 10 under § 112 should also be withdrawn.

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IV. The claims are novel over Bauer.

The Examiner rejected claims 1 to 6 and 17 to 24 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,425,734 to Bauer. The Examiner believed Bauer to disclose all features of the claimed flying disc, including the annular rim, flight plate, transition area, and the first and second gripping surfaces formed of irregular surfaces.

During the interview, the Examiner explained that the spiral blade member 55 to 57 in Figure 7 were being interpreted as the gripping surfaces. These spiral blade members 55 to 57, however, are not surfaces that are intended to be gripped by a person throwing or catching a disc. Instead, the spiral blade members 55 to 57 are intended to impart a lift force to the disc. As best seen in Figure 5 of Bauer, the user grasps the disc from an outer edge – not from any spiral blade member. Bauer therefore does not teach the first and second gripping surfaces formed in a transition area.

Bauer further fails to teach the first and second gripping surfaces since it does not disclose gripping surfaces formed of irregular surfaces. Claim 1 states that the disc has a transition area with a sloped surface and that the first and second gripping surfaces are formed on the top side and underside of the sloped surface. Even if the spiral blade members in Bauer could be considered a gripping surface, these blade members do not have any gripping surfaces formed of irregular surfaces formed on the top or underside. The rejection of claims 1 to 6 and 17 to 24 must therefore be withdrawn.

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In the Office Action, the Examiner argued that it would have been obvious to have provided irregular surfaces "to give the device a different look." The claimed gripping surfaces are functional surfaces in that they enable a user to better grasp the disc. In the dependent claims, the gripping surfaces are defined as being uni-directional, segmented, and staggered. These surfaces provide a low profile which has less of a tendency to collect foreign debris and hence is less harmful to canines catching the discs. These surfaces actually provide an aerodynamic benefit in that they serve as mini-vortex generators improving the overall stability of the disc. These functional features are not motivated by ornamental considerations such as how the disc looks. Accordingly, Bauer provides no suggestion for the claimed invention.

V. The claims are non-obvious over Bauer and Mitchell.

The Examiner rejected claims 7 to 16 under 35 U.S.C. § 103 as being unpatentable over Bauer and claims 10 to 16 under § 103 as being unpatentable over U.S. Patent No. 4,906,007 to Mitchell. These rejections are improper for at least the reasons set forth in the prior responses. The rejections were also stated as being improper during the interviews conducted with the Examiners. The Examiner is therefore respectfully requested to withdraw the rejections of claims 6 to 16.

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VI. Conclusion

For at least the above reasons, claims 1 to 24 are allowable. If the Examiner does not intend to issue a Notice of Allowance, the Examiner is respectfully requested to contact the undersigned attorney in order to resolve any remaining matters.

Please charge any additional fees or credit any overpayment to Deposit Account No. 11-0855.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In accordance with 37 CFR 1.121(b), the following replacement paragraphs show all the changes made by the foregoing amendment relative to the previous version of the paragraphs.

IN THE CLAIMS:

- 1 10. (Twice Amended) A disc for being thrown in the air for use with canines,
- 2 comprising:
- 3 an annular rim formed along an outer periphery of the disc and having a diameter less
- 4 than 9 inches;
- 5 a flight plate formed in a central portion of the disc;
- 6 a transition area joining the annular rim to the flight plate and presenting a sloped
- 7 surface between the annular rim and the flight plate;
- 8 flight plate and transition area having a thickness greater than [0.90] 0.090 inches;
- 9 wherein a ratio of a height of the flight plate to a diameter of the annular rim is less
- 10 than 1 to 9.

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IN THE SPECIFICATION:

On page 9, replace the first full paragraph with the following paragraph:

In addition to being segmented, staggered, and having a low-profile, the gripping surfaces 18 are preferably uni-directional. The gripping surfaces 18 are uni-directional in that the surfaces 18 provide a greater frictional force for movement in a radial direction than movement in a tangential direction along the disc 10. The orientation of the pattern forming the gripping surfaces 18 advantageously serve as a gripping surface for the thrower yet are not sized or shaped to retain foreign matter. An example of a preferred texture for the gripping surfaces 18 formed of irregular surfaces is shown in Figure 2. This pattern is provided by Plastic Products Unlimited, Inc. of Austell, Georgia and is texture no. 11375. As is evident from Figure 2, the texture is comprised of a number of segments that are staggered relative to each other and also are oriented in one general direction. It should be understood that the texture shown in Figure 2 is just one example and that various other textures or patterns may be used for the gripping surfaces 18.